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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/454,526	12/06/1999	MATTHEW G. GORBET	07447.0044-0	3842

7590

03/31/2004

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EXAMINER

FRANKLIN, JAMARA ALZAIDA

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/454,526

Applicant(s)

GORBET ET AL.

Examiner

Jamara A. Franklin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

Claims 1-13 are currently pending.

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/10/04 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Blanford (US 4,679,154).

Blanford teaches a UPC code, having encoded data and which lies on a label 50, which is scanned by a scanner assembly 30 to decode the encoded data. When the encoded data read by the scanner 30 is determined by a microprocessor 82 to be valid, a processor 88 will transmit the data over bus 26 to a back office processor 28 which, using the data as an address, will access a

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price look-up table 96 for retrieving the price of the merchandise item 52 being scanned. The numerical data representing the price of the item 52 is then displayed to a customer on a display member 68 (col. 4, line 18-col. 4, line 56).

***Allowable Subject Matter***

4. Claims 7-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, particularly the Blanford reference, fails to teach, or fairly suggest either alone or in combination thereof, a display which includes an optical device positioned relative to the substrate to enable an observer to view the first image on the substrate through the optical device; the display displaying the second image in the optical device in order to spatially relate the second visible data in the second image to the first visible data in the first image. Also allowable over the prior art of record is the apparatus wherein the first image having first visible data and the second image including second visible data are projected onto a projection surface such that an observer sees a composite image of the first and second visible data formed by the second image overlaid and registered with the first image.

***Response to Arguments***

6. Applicant's arguments entered on 2/10/04 have been fully considered but they are not persuasive. As indicated in the final rejection of paper no. 30, the independent claims cite the second image "being positioned relative" to the first image and the second image "spatially related to" the first visible data of the first image. The phrases "being positioned relative to" and "spatially related to" are hereby viewed broadly as to suggest that the second image and first image may be close to one another or far from one another since, in either case, the second image and first image would be "relative" and "spatially related" to one another.

Therefore, in the case of the Blanford reference, the UPC code on the item and numerical data representing the price of the item on the display member ARE relative to one another such that an observer sees the numerical data representing the price spatially related to the UPC code.

Furthermore, in response to the argument that independent claims 1 and 13 have been amended to address the examiner's concern as both images are viewed using the same display (or display system) and thus are in close proximity with respect to the display unlike Blanford, the examiner submits that the newly amended claims do not expressly teach that both images are viewed using the same display (or display system). Instead, the examiner interprets the claims to suggest that the first visible data of the first image and the second visible data of the second image are seen spatially related, with either the first visible data or the second visible data viewed using the display.


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***Conclusion***

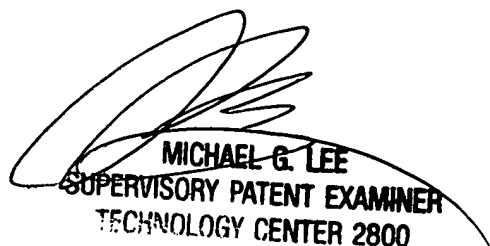
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamara A. Franklin whose telephone number is (571) 272-2389. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jamara A. Franklin  
Examiner  
Art Unit 2876

JAF  
March 19, 2004

  
MICHAEL G. LEE  
SUPERVISORY PATENT EXAMINER  
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